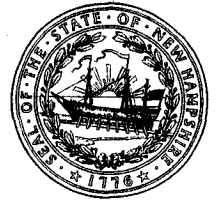




The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

Il Man Ahn  
d/b/a 97 Dry Cleaners  
401 Main Street C109  
Salem, NH 03079

Re: Self Certification Requirement

**NOTICE OF PROPOSED  
ADMINISTRATIVE FINE  
No. AF 06-025**

July 18, 2006

**I. INTRODUCTION**

This Notice of Proposed Administrative Fine is issued by the Department of Environmental Services, Waste Management Division to Il Man Ahn, pursuant to RSA 147-A:17-a and Env-C 601.05. The Waste Management Division is proposing that fines totaling \$250 be imposed against Il Man Ahn for the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

**II. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("the Division"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Il Man Ahn, d/b/a "97 Dry Cleaners", is an individual having a mailing address of 401 Main Street C109, Salem, NH 03079.

**III. VIOLATIONS ALLEGED**

1. Il Man Ahn has violated RSA 147-A:5, IV by failing to submit to the Department of Environmental Services ("DES") the Small Quantity Generator Self-certification Form and Declaration of Compliance ("SQG Self-certification Form") by January 1, 2004.
2. Il Man Ahn has violated RSA 147-A:5, IV by failing to submit to the Department of Environmental Services ("DES") the \$180 fee for the period of 2004 through 2006.

**IV. PROPOSED ADMINISTRATIVE FINES**

1. For the violation identified in Section III, paragraphs 1 and 2, pursuant to Env-C 610, the Division is proposing a fine of \$250.

**The total fine sought is \$250, subject to reduction pursuant to Section V, paragraph 1.**

## V. Response Options

**Il Man Ahn is required by NH Admin. Rule Env-C 601.06 to respond to this notice. Please respond using one of the following options:**

1. Il Man Ahn may submit the \$180 fee and the SQG Self-certification Form together with a reduced fine of \$150 for a **total payment of \$330**. If Il Man Ahn chooses this option, the fine payment, the signed waiver of hearing form, SQG Self-certification form, and fee must be submitted to the DES Legal Unit by August 23, 2006. If the administrative fine is not paid by the aforementioned date then the reduced rate no longer applies and the fine being sought is \$250.
2. Il Man Ahn may request a meeting, to be held either in person or by telephone, to discuss any errors or misunderstandings in the facts as stated in Section VI. To choose this option, Il Man Ahn **must** check the informal meeting request, sign the appearance form, return it to the DES Legal Unit and call Linda Birmingham, Enforcement Manager at (603) 271-5328 all by August 23, 2006.
3. Il Man Ahn may request a formal adjudicative hearing to contest the facts stated in Section VI, and the proposed fine. To choose this option, Il Man Ahn **must** check the formal hearing request and submit the appearance form to the DES Legal Unit by August 23, 2006. A Notice of Hearing will be issued to inform Il Man Ahn of the date and time for the hearing.

## VI. SUMMARY OF FACTS AND LAW SUPPORTING CLAIM

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per offense for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 610 and Env-C 612 to establish fines for such violations.
3. RSA 147-A:5, IV(a) establishes the Small Quantity Generator (SQG) self-certification program, by requiring each hazardous waste generator that generates less than 220 pounds (100 kilograms) of hazardous waste per month to submit to DES, every 3 years, a self-certification declaration stating that the facility is in compliance with the small quantity hazardous waste generator rules. The declaration shall be on a form provided by DES, the SQG Self-certification Form.
4. RSA 147-A:5, IV(c) requires each SQG to pay a non-refundable fee of \$180, unless the SQG is exempt from the fee under RSA 147-A:5, IV(e) because it is a political subdivision of the state.
5. (a) RSA 147-A:5, IV(c)(1) requires each SQG in Rockingham and Strafford counties to

submit self-certification forms by January 1, 2004.

(b) RSA 147-A:5, IV(c)(1) and IV(e) require each SQG that is not a political subdivision to submit a fee of \$180 for the period of 2004 through 2006, to DES by January 1, 2004.

6. Il Man Ahn operates a dry cleaning facility located in Salem, New Hampshire, which is in Rockingham County. Il Man Ahn registered as a generator of hazardous waste on July 26, 1994. Based on Il Man Ahn's Hazardous Waste Facility Notification Form, Il Man Ahn generates less than 220 lbs. /month of hazardous waste.

7. Under cover of letter dated October 1, 2003, the Division mailed the SQG Self-certification Form to SQGs in Rockingham and Strafford Counties, including Il Man Ahn. The cover letter informed the SQG of the law requiring SQGs of hazardous waste to provide certification that the SQGs facility is in compliance with applicable sections of the New Hampshire Hazardous Waste Rules. The letter provided notice that the SQG Self-certification Form and the \$180 fee were due on or before January 1, 2004.

8. The Division did not receive the SQG Self-certification Form and the accompanying \$180 fee from Il Man Ahn by the deadline date of January 1, 2004.

9. By letter dated May 25, 2004, the Division notified Il Man Ahn that the Division had not received the required SQG Self-certification Form and the accompanying payment, by the statutory deadline. The letter also informed Il Man Ahn that the Division may pursue enforcement options to ensure that all SQGs comply with the statutory requirement. The letter provided notice that Il Man Ahn needed to submit the SQG Self-certification Form and pay the required fee on or before July 12, 2004.

10. The Division did not receive the SQG Self-certification Form and the accompanying fee from Il Man Ahn on or before July 12, 2004.

11. By letter dated May 13, 2005, the Division notified Il Man Ahn that the Division had not received the required SQG Self-certification Form and the accompanying payment, by the statutory deadline. The letter also informed Il Man Ahn that the Division may pursue enforcement options to ensure that all SQGs comply with the statutory requirement. The letter provided notice that Il Man Ahn needed to submit the SQG Self-certification Form and pay the required fee on or before June 15, 2005.

12. The Division did not receive the SQG Self-certification Form and the accompanying fee from Il Man Ahn on or before June 15, 2005.

13. Il Man Ahn was contacted via telephone, on May 16, 2005 and March 7, 2006. On March 7, 2006, in response, Mr. Ahn said he would call back. There is no record of Mr. Ahn subsequently contacting DES.

14. As of the date of this Notice, the Division still has not received the SQG Self-certification Form and the accompanying fee of \$180.

Information regarding this proposed fine may be made available to the public via the DES Web page ([www.state.nh.us.des](http://www.state.nh.us.des)). If Il Man Ahn has any questions about this matter, please contact Linda Birmingham, at (603) 271-5328 or the DES Legal Unit, at (603) 271-7509.

**COPY**

Anthony F. Giunta, P.G., Director  
Waste Management Division

cc: Michael J. Walls, Assistant Commissioner, DES  
Gretchen Hamel, Legal Unit Administrator  
Jennifer Patterson, Esq., Senior Assistant Attorney General, NHDOJ  
RCRA/DB/AF  
PLH/JJD/APG/DJR

**\*\*\* RETURN THIS PAGE ONLY \*\*\***

**IL MAN AHN IS REQUIRED BY LAW  
TO RESPOND TO THIS NOTICE.**

**PLEASE RESPOND NO LATER THAN AUGUST 23, 2006**

Please check the appropriate line under either A or B and fill in the requested information under C below.

**A.) APPEARANCE** On behalf of Il Man Ahn:

\_\_\_\_\_ I request to have a **formal hearing** scheduled in this matter.

\_\_\_\_\_ I request to have an **informal meeting** to discuss errors of fact.

**B.) WAIVER OF HEARING** On behalf of Il Man Ahn:

\_\_\_\_\_ I certify that I understand my right to a hearing regarding the imposition of the proposed administrative fine and that I hereby waive that right. The fine payment in the amount of \$150\* (if paid before August 23, 2006) and the SQG Self-certification Form with the \$180 fee, for a total payment of \$330, paid to "Treasurer, State of New Hampshire" is enclosed. *If the administrative fine is not paid by August 23, 2006 the fine payment is raised to \$250 making the total payment due after that date \$430.*

*\* If payment is made by check, draft, or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the original check draft, or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to collecting the amount of the original check draft, or money order.*

**C.) Pursuant to Env-C 601.06(d), please provide the following information:**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name (please print or type): \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**RETURN THIS PAGE ONLY TO:**

**Department of Environmental Services ~ Legal Unit**

**Michael Sclafani, Legal Assistant**

**P.O. Box 95**

**Concord, NH 03302-0095**

# ENVIRONMENTAL Fact Sheet



29 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • [www.des.nh.gov](http://www.des.nh.gov)

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## Administrative Fines of the Department of Environmental Services

The Commissioner of the Department of Environmental Services (DES) is authorized by several statutes to impose administrative fines for certain violations of those statutes. In order to implement this authority, the Commissioner has adopted rules which specify the procedures for notifying people that a fine is being proposed and which specify the fine amount for any given violation. These rules are identified as Chapter Env-C 600.

Administrative fine proceedings follow a defined path. The first step is for a Division of DES to issue a Notice of Proposed Fine. The Notice will inform you of the violations the Division believes you have committed, together with the dollar amount of the fine that is being proposed. At this point, a final decision as to whether to impose the fine **has not been made** ... the Notice simply initiates the proceeding. The Notice will also inform you that you have a right to have a hearing before a final decision will be made, and may give a date and time for the hearing.

The Notice you receive will have a page attached to it on which you can indicate whether you will attend a hearing or whether you are waiving your right to a hearing and paying the fine which has been proposed. **YOU MUST COMPLETE AND RETURN THIS FORM.** The worst thing you can do if you receive a Notice is to ignore it! Under the rules which have been adopted, the case can proceed even if you don't respond. In order to achieve the best result, you must participate in the process.

When you receive a Notice of Proposed Fine, if you are interested in trying to settle the case without going to a formal hearing you should contact the person identified in the Notice. Many fine cases are settled in this way, often with a lower fine, a payment schedule, and/or a suspended fine. The negotiations need to start soon after the Notice is received, though. Don't wait until the day scheduled for the hearing to ask about settling the case.

If the case proceeds to a hearing, the Commissioner will designate a person to serve as a hearing officer to preside at the formal hearing. The hearing officer will not have prior knowledge of the Division's allegations, and will be neutral insofar as the outcome of the case is concerned. At the hearing, the Division will be required to prove that the violation(s) occurred and that the proposed fine is warranted. You will have an opportunity to ask questions of (cross-examine) the Division staff, and also present your own evidence, including testimony of witnesses if you wish, to show why the fine should not be imposed.

(over)

After the hearing is over, the hearing officer will compile the record (i.e. all of the information that was received at the hearing) and will make a recommendation to the Commissioner as to whether or not the fine should be imposed. The Commissioner will make a decision based on the evidence and testimony, and the decision issued by the Commissioner will specifically state the reasons for the decision.

The rules adopted by the Commissioner require the proposed fine to be reduced in certain circumstances, which are listed at Env-C 601.09. These include that you have not previously violated a law or rule implemented by DES, or that you acted in good faith. The Commissioner also has the discretion to allow you to pay a fine on a payment schedule, and/or to suspend all or a portion of the fine conditional upon remedying the underlying violation or staying in compliance with DES requirements for a specified period of time.

Sometimes people are concerned that the findings and rulings made by the Commissioner might be used against them in a separate proceeding (for instance, if their neighbor sues them for damages arising out of the same violation(s) for which they are being fined). In such a case, DES has accepted payment of the fine with a specific denial of liability. This is like pleading "no contest" to a traffic ticket: you pay the fine assessed, but are not admitting that you did anything wrong.

*This fact sheet is intended as a basic source of information concerning DES administrative fines. It is not intended to replace the laws and rules regarding administrative fines, but merely to provide a summary of them.*

For more information contact the DES Legal Unit, PO Box 95, Concord, NH 03302-0095, (603) 271-6072.